IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE CIVIL JURISDICTION

Writ Petition No.2373 of 2005

Sakharam Vishnu Joshi by heirs .. petitioners
vs
The State of Mah & ors..Respondents

Mr L.D.Vakil for Ram & Co for petitioners
Mr P.M.patil AGP for State

CORAM: A.P.SHAH & D.Y.CHANDRACHUD JJ.

Dated 6.7.2005

P.C:

. Rule. The learned AGP waives service for respondents. By consent, Rule is made returnable forthwith.

. The petitioner was the owner of land bearing S.No. l9, and 20 admeasuring 6 Hectares, 34.7 Ares. The land of the petitioner was acquired for Morbe Dam Project. The award came to be passed under section ll of the land Acquisition Act on 3.9.l980. By the said award compensation was awarded at the rate of Rs.3.62 per sq mtr. The petitioner did not file any application for reference for enhancement of compensation under section l8 of the Land Acquisition Act.

. It is the case of the petitioners that on

6.l2.2000 the Addl District Judge, Raigad-Alibag in Reference Application No.LAR 45 of l999 awarded compensation at the rate of Rs.20 per sq mter to the neighbouring land owners at village Morbe. The petitioner therefore filed application for enhancement of compensation under section 28A of the Land Acquisition Act on 27.2.200l. It appears that on that application notice was issued to the petitioner on 27.5.2002 and his statement was recorded by the Collector on l6.6.2002. The Collector however, failed to declare the award for nearly 3
years.

. The petitioner filed Writ Petition Lodging No. 30883 of 2004 which came to be disposed of by the Division Bench on 27.l2.2004 directing the Collector to dispose of the application for enhancement of compensation expeditiously and in any event by 3l.3.2005. By the said order the Collector was directed to take into consideration the decision of the Supreme Court in Union of India vs Mangatu Ram, AIR l997 SC 2784.

. It appears that the Collector Raigad had already passed an award on 30.4.2004 but intimation of that award was given to the petitioner only on 7.2.2005.

It appears that the Collector had not granted any personal hearing to the petitioner though the award came to be passed on 30.4.2004. This fact was not disclosed to this court when the earlier petition was disposed of on 2l.l2.2004.

. The learned counsel appearing for the petitioners contended and not without sufficient force that the Collector is obliged to grant personal hearing to the petitioners before adjudicating the claim under section 28A of the Land Acquisition Act. It appears that the decision of the Supreme Court in Union of India vs Mangatu (supra) was also not considered by the Collector.

. Under the circumstances we quash and set aside the award of the Collector and remit the matter back to the Collector for fresh decision on the petitioners' application under section 28A of the Land Acquisition Act. Needless to say that the Collector shall grant personal hearing to the petitioners before declaring his award. All contentions on merits are left open to the parties. Petition stands disposed of accordingly.